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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Cinnamon Rose Prowell,)	No. CV-04-1559-PHX-DGC
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
Kennedy Restaurant & Bar Management,)	
Inc; and Seven Vines, Inc., dba Vine)	
Tavern & Eatery,)	
)	
Defendants.)	

Defendants have filed a motion for reconsideration regarding the Court's May 3, 2006 order denying in part Defendant's motion for summary judgment. Doc. #51; *see* Doc. #49. For the reasons set forth below, the Court will deny the motion.

In its May 3 order, the Court noted that Defendants did not address Plaintiff's argument that her reassignment to less desirable shifts constitutes a tangible employment action. Doc. #49 at 3 n.2. Defendants draw the Court's attention to the section of their reply brief that addressed whether Defendants acted reasonably in investigating Plaintiff's complaint of harassment. Doc. #51 at 1 (citing Doc. #48 at 7). Defendants point out that they argued that Plaintiff was compensated more in the pay period following her complaint than in previous pay periods. *Id.* (citing Docs. ##48 at 7, 44 Ex. L).

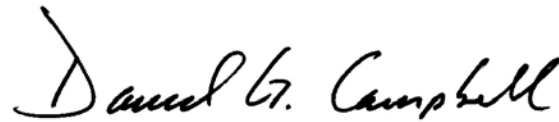
Defendants, however, made this argument to show that Plaintiff's reassignment was a reasonable response to her complaint of harassment; Defendants never argued that the

1 reassignment does not constitute a tangible employment action. Rather, Defendants focused
2 on Plaintiff's termination, contending that it was not a tangible employment action within the
3 meaning of *Faragher* and *Ellerth*. See Docs. ##43 at 7, 48 at 4.

4 Moreover, the evidence, construed in Plaintiff's favor, shows that Plaintiff was
5 reassigned to less desirable shifts. Plaintiff's paycheck dated October 25, 2002 – the date she
6 was reassigned – shows that she earned about \$8.52 per hour. Doc. #44 Ex. L. Plaintiff's
7 next (and last) paycheck shows that she earned about \$5.69 per hour. *Id.*

8 **IT IS ORDERED** that Defendants' motion for reconsideration (Doc. #51) is **denied**.

9 DATED this 11th day of May, 2006.

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13 David G. Campbell
14 United States District Judge
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